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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,229	08/20/2001	Kenneth N. Harel	CONTC.57582	6394

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EXAMINER

A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/933,229	Applicant(s) HAREL, KENNETH N.	
	Examiner Phi D. A	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 16, 30, 35, 36, 41-48 and 52-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 16, 30, 35, 36, 41-48 and 52-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. PRODUCT BY PROCESS CLAIM:

“ The subject matter present is regarded as a product by process claim in which a product is introduced by the method in which it is made. It is the general practice of this office to examine the final product described regardless of the method provided by the applicant.”

This office policy applies to the limitation of “after bonding....areas” of claim 56.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al (6295776) in view of Weldy (re34547) and Hoffmann (6684586).

Kunz et al shows a drywall trim device comprising a relatively rigid elongated core (12) having a curved transverse cross section(14) so as to have a convex outer surface and a concave inner surface, a pair of flanges (16) terminating in respective longitudinal edges, a paper cover (20) bonded to the outer surface of the core and extending beyond the longitudinal edges of the core to form flexible flaps (the edge of the cover which extends beyond the core) having respective outward and inward surfaces, the flaps being formed with spaced apart perforations on the outward surfaces.

Kunz et al does not show the flap having elongated grooves and ridges with at least the inward surfaces including the ridges for anchoring the joint compound on the drywall corner joint, at least the outward surfaces including the grooves, the perforations being in the grooves of the outward surfaces.

Weldy shows flaps (14, figure 2) having grooves and ridges (the grooves and ridges formed by the striation) and perforations (26) for assisting with the anchoring of the device into the corner.

Hoffmann Sr. shows grooves and ridges (grooves between ridges 18) on the inward surfaces for anchoring a joint compound on the drywall corner joint.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap having elongated grooves and ridges with at least the inward surfaces including the ridges for anchoring the joint compound on the drywall corner joint, at least the outward surfaces including the grooves as taught by Hoffmann Sr., the perforations being in the grooves of the outward surfaces as taught by Weldy because having corrugated surface with grooves and ridges on the inward surface of the cover would enhance the ability of the strip to adhere well to a drywall sheet (col 3 lines 64-66) as taught by Hoffman Sr. and having perforations at the grooves of the outward surfaces on the flaps would enhance the secured fastening of the flaps to the underlying substrate as taught by Weldy.

3. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al (6295776) in view of Weldy (re34547) and Hoffmann (6684586).

Kunz et al shows a drywall trim device comprising a relatively rigid elongated core (12) having a curved transverse cross section(14) so as to have a convex outer surface and a concave inner surface, a pair of flanges (16) terminating in respective longitudinal edges, a paper cover (20) bonded to the outer surface of the core and extending beyond the longitudinal edges of the core to form flexible flaps (the edge of the cover which extends beyond the core) having

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respective outward and inward surfaces, the flaps being formed with spaced apart perforations on the outward surfaces.

Kunz et al does not show the flap being formed on both their outwardly facing and inwardly facing surfaces with alternating grooves and ridges to provide linear stiffness in the flaps, the flaps further formed on their outwardly facing surfaces with spaced apart perforations formed along the grooves and extending through the flaps to their inwardly facing surfaces to provide for communication of uncured joint compound between the outwardly facing surfaces and the inwardly facing surfaces.

Weldy shows flaps (14, figure 2) having grooves and ridges (the grooves and ridges formed by the striation) on the outwardly facing surfaces, and perforations (26) on the outwardly facing surfaces extending through the flaps for assisting with the anchoring of the device into the corner.

Hoffmann Sr. shows alternating grooves and ridges (grooves between ridges 18 on the inner face, grooves 16 between ridges on the outward surface) for anchoring a joint compound on the drywall corner joint.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap having alternating elongated grooves and ridges with on both the inward and outward as taught by Hoffmann Sr., the perforations being in the grooves of the outward surfaces as taught by Weldy because the grooves and ridges on the inner and outer surfaces of the cover would enhance the ability of the strip to adhere well to a drywall sheet (col 3 lines 64-66) as taught by Hoffman Sr. and having perforations at the grooves of the

outward surfaces on the flaps would enhance the secured fastening of the flaps to the underlying substrate as taught by Weldy.

4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al (6295776) in view of Weldy (re34547) and Hoffmann Sr. (6684586).

Kunz et al (figure 1) shows a protective drywall joint strip device having an elongated rigid core (12) of a predetermined width and terminating in opposite longitudinal edges, a paper cover (20) bonded to the core and configured to project laterally beyond the respective edges to form the respective flexible flaps having an outwardly facing surface and inwardly facing surface, the flaps being formed with respective perforations spaced equidistant, and extending through the flaps to form open flow apertures for flow therethrough of joint compound, the perforations being at least $1/64^{\text{th}}$ of an inch in transverse cross section.

Kunz et al does not show the flap being formed on at least the inwardly facing surface with at least four parallel elongated grooves defining reinforcing ribs, the grooves being spaced $1/8^{\text{th}}$ of an inch apart and the ribs being raised outwardly from the bottom of the grooves at least $1/64^{\text{th}}$ of an inch, the perforations being spaced equidistant along the ribs and extending through the flaps to form open flow apertures at least $1/64$ of an inch in transverse cross section for flow therethrough of joint compound.

Hoffmann Sr. shows the flap being formed on at least the inwardly facing surface with at least four parallel elongated grooves therebetween the ribs (the grooves are the areas between the ribs 18 figures 4-5), the ribs being raised from the bottom of the groove 0.005 inch, perforations (14) having $1/8^{\text{th}}$ inch to allow for easy flow joint compound into the interior surface of the flap to help anchor the flap to the drywall.

Weldy shows perforations spaced equidistant along the ribs to enable strong engagement of plaster material to attach the cover to a wall.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap being formed on at least the inwardly facing surface with at least four parallel elongated grooves defining reinforcing ribs, and the ribs being raised outwardly from the bottom of the grooves at least $1/64^{\text{th}}$ of an inch in transverse cross section for flow therethrough of joint compound, the perforations (14) being at least $1/64$ of an inch through the flaps as taught by Hoffmann, the grooves being spaced $1/8^{\text{th}}$ of an inch apart, the perforations being spaced equidistant along the ribs as taught by Weldy because having the flap being formed on at least the inwardly facing surface with at least four parallel elongated grooves defining reinforcing ribs, and the ribs being raised outwardly from the bottom of the grooves at least $1/64^{\text{th}}$ of an inch in transverse cross section for flow therethrough of joint compound, the perforations (14) being at least $1/64$ of an inch through the flaps would allow for the easy and secure fastening of the cover to the dry wall as taught by Hoffmann, and thus resulting in a stronger finish wall surface, having the perforations being spaced equidistant along the ribs would enhance the secured fastening of the flaps to the underlying substrate as taught by Weldy, and it would have been an obvious matter of engineering design choice to show the grooves being spaced $1/8^{\text{th}}$ of an inch apart since such a modification would have involved a mere change in the size of a component; a change in size is generally recognized as being within the level of ordinary skill in the art, In re Rose, 105 USPQ 237 (CCPA 1955).

5. Claim 16, 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al (6295776) in view of Weldy (re34547) and Hoffmann (6684586).

Ritchie et al (figure 5) shows a drywall corner protection strip device having an elongated metal core (10') having first and second longitudinal edges, a paper cover (12') bonded to the metal core and extending beyond the first and second longitudinal edges to form flexible paper flaps, each having an outwardly facing surface and an inwardly facing surface, the paper cover being constructed of fibers and strengthening compound mixed together, the strengthening compound encapsulates the fibers (col 3 lines 10-12, lines 44-48).

Ritchie et al does not show the flaps being formed on their outwardly facing surfaces with spaced apart perforations and extending through the flaps to their inwardly facing surfaces to provide for the communication of uncured joint compound between the outwardly facing surfaces and the inwardly facing surfaces during the installation of the drywall corner protection strip device onto the drywall corner joint, the flap being formed on both their outwardly facing and inwardly facing surfaces with alternating elongated grooves and ridges, the perforations being formed along the grooves of the outside surface of the flaps.

Weldy shows flaps (14, figure 2) having grooves and ridges (the grooves and ridges formed by the striation) on the outwardly facing surfaces, and perforations (26) on the outwardly facing surfaces extending through the flaps for assisting with the anchoring of the device into the corner.

Hoffmann Sr. shows alternating grooves and ridges (grooves between ridges 18 on the inner face, grooves 16 between ridges on the outward surface) for anchoring a joint compound on the drywall corner joint on the inward and outwardly facing surfaces to provide for secure anchoring of the cover to the drywall.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ritchie et al to show the flaps being formed on their outwardly facing surfaces with spaced apart perforations and extending through the flaps to their inwardly facing surfaces to provide for the communication of uncured joint compound between the outwardly facing surfaces and the inwardly facing surfaces during the installation of the drywall corner protection strip device onto the drywall corner joint, the perforations being formed along the grooves of the outside surface of the flaps as taught by Weldy, the flap being formed on both their outwardly facing and inwardly facing surfaces with alternating elongated grooves and ridges as taught by Hoffmann Sr. because the grooves and ridges on the inner and outer surfaces of the cover would enhance the ability of the strip to adhere well to a drywall sheet (col 3 lines 64-66) as taught by Hoffman Sr. and having perforations at the grooves of the outward surfaces on the flaps would enhance the secured fastening of the flaps to the underlying substrate as taught by Weldy.

6. Claims 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al (6295776) in view of Hoffmann (6684586).

Kunz et al shows a drywall fitting device comprising an elongated core (12) having at least one elongated edge, a paper cover for covering the core and projecting laterally beyond the one edge to form an elongated paper flap having an outwardly facing and inwardly facing surface.

Kunz et al does not show the flap having a plurality of spaced apart ridges on at least the inwardly facing surface.

Hoffmann Sr. shows the flap having a plurality of spaced apart ridges (18) on at least the inwardly facing surface for anchoring a joint compound on the drywall corner joint.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap having a plurality of spaced apart ridges on at least the inwardly facing surface for anchoring the joint compound on the drywall corner joint because the spaced apart ridges would enhance the ability of the strip to adhere well to a drywall sheet (col 3 lines 64-66) as taught by Hoffman Sr.

Per claims 42-44, Kunz et al as modified by Hoffman Sr. shows the ridges being of uniform height and spaced equidistant apart, the ridges also are continuous in the longitudinal direction of the flap (each of the ridges is a continuous in the direction).

7. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al (6295776) in view of Hoffmann (6684586) as applied to claim 41 above and further in view of Weldy.

Kunz et al as modified all the claimed limitation except for the ridges extending the full length of the flap and the bottom of the grooves being formed with through openings so that compound applied to the grooves will be directed to the openings.

Weldy shows ridges (the protrusions of the striations) extending the full length of the flap and bottom of the grooves being formed with openings so that compound applied to the grooves will be directed to the openings.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al's modified structure to show the ridges extending the full length of the flap and the bottom of the grooves being formed with through openings so that compound

applied to the grooves will be directed to the openings because it would enhance the anchoring of the cover to the drywall as taught by Weldy.

8. Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchie et al in view of Weldy (re34547) and Hoffmann (6684586).

Ritchie et al as modified shows all the claimed structural limitations. The claimed method steps of making a drywall joint protection strip device would have been the obvious method steps of making Ritchie et al's modified protection strip device.

9. Claims 52, 53, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al in view of Hoffmann.

Kunz et al (figure 1) shows a drywall corner protection strip device having a relatively rigid core, a relatively flexible cover strip (20) for overlying the core and bonded to the core, the cover projecting beyond the opposite sides of the core to form respective flexible flaps formed with inner and outer sides, the flaps are further formed with a plurality of perforations disposed along the length thereof and filled with the joint compound.

Kunz et al does not show the inner sides of the flaps being formed with a plurality of alternating longitudinal flap grooves and ridges to be embedded in joint compound interposed between the inner sides and a respective corresponding portion of the exterior surfaces of the panels to fill the grooves and anchor the flaps in the compound, the flaps being formed with a plurality of perforations disposed along the length thereof and filled with the joint compound to form compound posts which cooperate with the ridges to mechanically resist displacement of the core.

Hoffmann shows the inner sides of the flaps being formed with a plurality of alternating longitudinal continuous flap grooves and ridges throughout the length of the flaps (each groove and ridge is continuous) to be embedded in joint compound interposed between the inner sides and a respective corresponding portion of the exterior surfaces of the panels to fill the grooves and anchor the flaps in the compound, the flaps being formed with a plurality of perforations (14) disposed along the length thereof and filled with the joint compound to form compound posts which cooperate with the ridges to mechanically resist displacement of the core.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the inner sides of the flaps being formed with a plurality of alternating longitudinal flap grooves and ridges to be embedded in joint compound interposed between the inner sides and a respective corresponding portion of the exterior surfaces of the panels to fill the grooves and anchor the flaps in the compound, the flaps being formed with a plurality of perforations disposed along the length thereof and filled with the joint compound to form compound posts which cooperate with the ridges to mechanically resist displacement of the core because it would enhance the ability of the strip to adhere well to a drywall sheet (col 3 lines 64-66) as taught by Hoffman Sr.

Per claim 55, Kunz et al as modified shows the ridges and grooves being continuous throughout the length of the flaps.

10. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al in view of Hoffmann as applied to claim 53 above and further in view of Weldy.

Kunz et al as modified shows all the claimed limitations except for the perforations disposed in longitudinal rows and formed on their respective outer sides with the grooves aligned with the respective rows of perforations.

Weldy further shows perforations disposed in longitudinal rows and formed on their respective outer sides with the grooves aligned with the respective rows of perforations to enhance the anchoring of the cover to the joint compound.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al's modified structures to show the perforations disposed in longitudinal rows and formed on their respective outer sides with the grooves aligned with the respective rows of perforations as taught by Weldy because it would enhance the anchoring of the cover to the joint compound.

11. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al (6295776) in view of Hoffmann (6684586).

Kunz et al shows a drywall trim device comprising a relatively rigid elongated core (12) having first and second edges to fit over the corner joint, a paper cover bonded to the core and extending beyond first and second edges to form a respective flexible paper flaps of respected predetermined areas, having respective outward and inward facing surfaces, the flap, after bonding of the cover to the core, being permanently deformed to facilitate anchoring of the flaps upon pressing contact with joint compound on the drywall corner joint.

Kunz et al does not show the flap having a plurality of ridges and depressions on the interior surface of the flaps.

Hoffmann Sr. shows depressions and ridges (grooves between ridges 18) on the inward surfaces for anchoring a joint compound on the drywall corner joint.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap having a plurality of ridges and depressions on the interior surface of the flaps because it would enhance the ability of the strip to adhere well to a drywall sheet (col 3 lines 64-66) as taught by Hoffman Sr.

Double Patenting

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. Claims 15-16, 30, 35-36, 41-48, 52-56 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over figures 1-2/claim 1 of U.S. Patent No. D457658. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitations are fully claimed in patent D457658 figures 1-2.

14. Claims 15-16, 30, 35-36, 41-48, 52-56 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over figures 1-2/claim 1 of U.S. Patent No. D457972. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitations are fully claimed in patent D457972 figures 1-2.

15. Claims 15-16, 30, 35-36, 41-48, 52-56 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over figures 1-2/claim 1 of U.S. Patent No. D458388. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitations are fully claimed in patent D458388 figures 1-2.

Response to Arguments

16. Applicant's arguments with respect to claims 15-16, 30, 35-36, 41-48, 52-55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

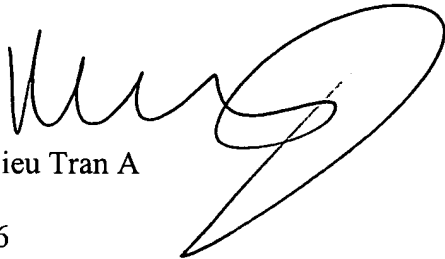
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows wall finishing device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of stylized, cursive letters that appear to read 'Phi Dieu Tran A'. The signature is written over the printed name and date.

Phi Dieu Tran A

8/4/06